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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ADINA RINGLER, KRISTA ROBLES,  
JAY SMITH, and JANA  
RABINOWITZ, individually and on  
behalf of all others similarly situated.

## Plaintiffs,

V.

THE J. M. SMUCKER COMPANY.

**Defendant**

Case No. 2:25-cv-01138-AH-F

Hon. Anne Hwang

**DECLARATION OF RONALD Y.  
ROTHSTEIN IN SUPPORT OF  
STIPULATION TO MODIFY  
SCHEDULING ORDER [ECF No.  
65]**

Amended Complaint filed: September 8, 2025

1                   **DECLARATION OF RONALD Y. ROTHSTEIN**

2       I, Ronald Y. Rothstein, declare as follows:

3       1. I am an attorney admitted *pro hac vice* to appear before this Court in the  
4 above-captioned action. I am a partner with the law firm Winston & Strawn LLP. I  
5 am serving as lead counsel for Defendant The J. M. Smucker Company  
6 (“Defendant”) in connection with the current proceedings. I make the following  
7 declaration in support of Plaintiffs Adina Ringler, Krista Robles, Jay Smith, and Jana  
8 Rabinowitz (collectively, “Plaintiffs”) and Defendant’s Stipulation to Modify  
9 Scheduling Order. I am over the age of eighteen and am competent to make this  
10 declaration. I have personal knowledge of the following facts and, if called to testify  
11 to them, could and would competently do so.

12      2. On October 29, 2025, Plaintiffs and Defendant (collectively, the  
13 “Parties”) appeared before this Court for hearing on Defendant’s Motion to Transfer  
14 Venue and Motion to Dismiss. During the hearing, the Court advised the Parties to  
15 meet and confer regarding proposed class certification deadlines as well as other  
16 pretrial and trial dates.

17      3. At the hearing, the Court expressed willingness to consider a class  
18 certification briefing schedule with dates certain for Plaintiffs’ motion, Defendant’s  
19 opposition, and Plaintiffs’ reply. The Court further advised the Parties that they could  
20 submit declarations supporting, and setting forth the rationale for, their proposed  
21 deadlines.

22      4. On November 4, 2025, the Parties met and conferred regarding proposed  
23 modifications to the class certification briefing schedule. During the conference,  
24 Defendant communicated to Plaintiffs its desire to come to an agreement on a briefing  
25 schedule with dates certain, in line with the Court’s instructions to the Parties during  
26 the October 29, 2025 hearing.

27      5. Following the meet and confer, Plaintiffs sent Defendant a proposed  
28 stipulation modifying the scheduling order which did not contain a class certification

1 briefing schedule. Defendant responded with its suggested revisions, which were in  
2 line with Defendant's past proposals in both the Parties' Rule 26(f) report and its  
3 response to Plaintiffs' previous motion to modify the Court's scheduling order. *See*  
4 Dkt. Nos. 24, 24-1, 56. Notwithstanding the Court's clear directive to provide a class  
5 certification briefing schedule, Plaintiffs rejected Defendant's proposal and requested  
6 Defendant's consent to file Plaintiffs' version of the stipulation, which did not contain  
7 a class certification briefing schedule.

8       6. Defendant objected to Plaintiffs' attempt to file a stipulation to which the  
9 Parties did not agree, and which was not in compliance with the Court's directives.  
10 Thereafter Plaintiffs proposed a revised stipulation which, instead of including  
11 deadlines, indicated that the Parties were unable to come to an agreement. Again,  
12 Defendant responded that Plaintiffs' proposal did not comport with the Court's  
13 directives and requested that the Parties file a stipulation reflecting each of their  
14 proposed modified schedules.

15       7. Defendant's proposed schedule contemplates adequate time for Plaintiffs  
16 and Defendant to prepare class certification papers and conduct related expert  
17 discovery. The Parties agreed on a deadline of March 25, 2026 for Plaintiffs to file  
18 their motion for class certification. This means, that from the inception of this case,  
19 Plaintiffs will have had over 13 months to prepare for certification.

20       8. Based on Defendant's counsel's decades of experience handling complex  
21 consumer class actions like this one, the schedule Defendant proposed provides  
22 ample time to address all issues that may arise in Plaintiffs' class certification  
23 briefing.

24       9. When Plaintiffs file their class certification motion they will almost  
25 certainly also disclose expert reports, potentially from subject matter experts,  
26 economists and damages experts, and multiple survey experts (who may conduct,  
27 among other things, consumer perception and/or conjoint surveys). Defendant must  
28 subpoena information from, depose, and prepare responses to, each of Plaintiffs'

1 experts. If Defendant must conduct rebuttal surveys, it must design these surveys,  
2 identify appropriate survey populations, conduct the surveys, analyze and opine on  
3 the results, and incorporate those results into Defendant's opposition to Plaintiffs'  
4 motion for class certification. In my experience, this process takes approximately  
5 three months to complete.

6 10. Defendant must also be afforded sufficient opportunity to challenge,  
7 through *Daubert* motions, any or all of Plaintiffs' proffered experts that do not meet  
8 the requirements of Federal Rule of Evidence 702. Defendant must file its *Daubert*  
9 motions in conjunction with its class certification opposition or risk waiving  
10 arguments as to the admissibility of Plaintiffs' expert evidence. See *Olean Wholesale*  
11 *Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651, 665 (9th Cir. 2022)  
12 (where "a defendant did not raise a *Daubert* challenge to the expert evidence before  
13 the district court [at the time of class certification], the defendant forfeits the ability  
14 to argue on appeal that the evidence was inadmissible"). Without any extensions, it  
15 takes approximately 30 days from the time of filing for a *Daubert* motion to become  
16 ripe.

17 11. In addition to the rebuttal work contemplated in the preceding  
18 paragraphs, Defendant must also prepare its own affirmative expert reports. Given  
19 the theory at issue in this case (i.e., consumer deception), Defendant's experts will  
20 also likely rely upon consumer surveys, which they will have to conduct in  
21 connection with their expert reports. These affirmative surveys will likely include  
22 conjoint surveys, consumer perception surveys, and/or materiality surveys. To design  
23 these surveys, identify appropriate survey populations, conduct the surveys, and  
24 analyze and opine on the results takes approximately three months to complete.

25 12. By way of example, in *Flodin, et al. v. Central Garden & Pet Company*  
26 *et al.*, Case No 4:21-cv-01631-JST-DMR (N.D. Cal.), a case I handled that similarly  
27 involves allegations of false advertising and misrepresentations impacting a  
28 company's product packaging and labels, the plaintiffs disclosed with their motion

1 for class certification, among other things, two survey experts—one who conducted  
2 a conjoint survey and one who conducted a consumer perception survey—and a  
3 damages expert. In opposing the motion and the plaintiffs' survey evidence, the  
4 defendant was required to conduct two consumer surveys, a “package understanding”  
5 survey and a “purchase impact” survey, to rebut the plaintiffs' surveys and show that  
6 the alleged at-issue deception did not mislead consumers or increase consumer  
7 purchase interest for the relevant product. Design and implementation of these  
8 surveys took approximately three months. At the same time, the defendant also had  
9 to subpoena information from the plaintiffs' survey and damages experts, depose  
10 plaintiffs' experts and prepare *Daubert* motions. In light of the defendant's  
11 significant undertaking in opposing class certification, the defendant was given  
12 approximately four months to oppose the plaintiffs' motion.

13       13. Similar surveys will almost certainly be necessary here. The class  
14 certification schedule proposed by Defendant contemplates these surveys and each  
15 of the other tasks described above and provides sufficient time for them to be  
16 completed while also endeavoring to avoid additional requests to the Court for  
17 extensions of time. Moreover, Defendant's proposed schedule avoids the inherently  
18 prejudicial scenario of Defendant being forced to move for additional time to oppose  
19 Plaintiffs' motion for class certification (without knowing how much, if any time,  
20 may be granted), only after Plaintiffs' motion has been filed and the clock on  
21 Defendant's existing deadline has started to run.

22       14. For the reasons discussed above, Defendant's proposed schedule is not  
23 only reasonable, but also necessary, and gives each party fair opportunity to present  
24 its class certification arguments.

25       I certify under the penalty of perjury under the laws of the United States of  
26 America and the State of California that the foregoing is true and correct. Executed  
27 on November 7, 2025.  
28

1 Dated: November 7, 2025

WINSTON & STRAWN LLP

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By: /s/ Ronald Y. Rothstein

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